



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,484	03/30/2001	Steve A. DeLuca	MSFT116242	1522
26389	7590	09/11/2007		
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			EXAMINER	
1420 FIFTH AVENUE			BAUTISTA, XIOMARA L	
SUITE 2800				
SEATTLE, WA 98101-2347			ART UNIT	PAPER NUMBER
			2179	
			MAIL DATE	DELIVERY MODE
			09/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/824,484

Applicant(s)

DELUCA ET AL.

Examiner

X. L. Bautista

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 and 32-34 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 10 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 10 and 19 recite a computer-readable medium, which is defined in the specification as "program modules or other data in a modulated signal such as a carrier wave..." (paragraph 0027).

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

First, a claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate

to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-5, 7, 9-11 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coelho et al* (US 6,128,016), *Englefield* (US 5,896,491) and *Kodosky et al* (US 2002/0080174 A1).**

Claims 1, 7 and 32:

Coelho discloses a graphical user interface for managing server systems operation and performance (providing a computing device control interface for centrally controlling a plurality of networked computing devices), (col. 2, lines 8-24). Coelho teaches displaying a set of icons representing network computing devices that when selected by the user activate a mechanism that provides numerical values as output, the values being used by the main control procedures that initiates the required sequence of procedures/operations (figs. 2-5; col. 4, lines 60-67;

col. 5, lines 1-11, 37-64; col. 8, lines 53-67; col. 9, lines 1-31).

Coelho does not teach displaying a set of graphical action icons for selection by a user, wherein each action icon is representative of at least one action to be executed by a computing device. However, Englefield discloses a graphical user interface that permits a user to graphically represent operations that can later be selected for execution. Englefield explains that data manipulation operation can be graphically represented with a single icon that can be selected for execution. Englefield teaches that the user may select an icon that represents processing operations, then the user may select a set of data items, so that the system performs the processing operations represented by the selected icon on the set of selected data items (col. 2, lines 16-58; col. 9, lines 8-33). Therefore, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify Coelho's teaching of managing a server system to include Englefield's teaching of executing functions associated with function icons because, as Englefield says, the sequence of processing is more efficient because the user knows what process will be applied at the time of selecting the data.

Coelho/Englefield does not teach that the actions are executed on at least one counter related to a specific function of at least one network computing device. However, Kodosky discloses a system and method for converting a graphical program (actions, specific functions) into a hardware implementation (action to be

executed by a computing device), (abstract p. 2, par. 0011, 0012). Kodosky teaches that a graphical program implements a measurement function, and manipulates one or more hardware resources, including counters (p. 4, par. 0036). Kodosky explains that a function icon can be dropped on the graphical user interface to control hardware components (computing devices), (p. 17, par. 0215; p. 29, par. 0404). Thus, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Coelho/Englefield's method of controlling computing devices to include Kodosky teaching of manipulating computing devices and generating one or more action icons representing a control to be executed on at least one computing device because, as Kodosky explains, users are provided with the ability to develop a desired action or program and operate directly in hardware for increased speed and efficiency.

Claims 2-4, 33 and 34:

See claim 1. Coelho teaches a number of instructions corresponding to actions represented by icons wherein execution of respective instructions causes one or more devices to execute the instructions (col. 5, lines 54-64; col. 6, lines 53-67; tables I and II; col. 9, lines 1-31).

Claim 5:

Coelho teaches a control for modifying instructions (col. 2, lines 51-64; col. 10, lines 63-67; col. 11, lines 1-36).

Claim 9:

Coelho teaches a server computer (figs. 1a, 1b).

Claim 10:

Coelho teaches a software framework facility (col. 3, lines 35-41).

Claim 11:

Coelho teaches a processor, memory and an operating environment (figs. 1-4).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Coelho/Englefield/Kodosky* and *Goodman et al* (US 7,020,697 B1).

Claim 6:

Englefield teaches function icons and Coelho teaches a navigation model (template) for requesting information, setting values, and managing (planning) devices (abstract; col. 8, lines 33-42; col. 10, lines 63-67; col. 11, lines 1-18).

Coelho/Englefield/Kodosky does not teach implementing capacity planning in the network computing devices represented by icons. However, Goodman discloses an architecture for netcentric computing systems that has quality management tools that support planning and measurement of quality in the enterprise (col. 9, lines 1-12; abstract); and performance monitoring tools that help ensure that the available resources are sufficient to meet the developers' performance requirements, the tools being used to assess performance of different processes (col. 52, lines 17-

22, 57-65; col. 53, lines 25-33, 65-67; col. 54, lines 1-4; col. 57, lines 44-51, 60-63).

Goodman teaches service management components including capacity planning components that represent tools for gathering utilization data from various elements of an environment (col. 135, lines 22-67; col. 136, lines 7-17). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to modify Coelho/Englefield/Kodosky's invention to include Goodman's teaching of measuring and analyzing the elements of an environment or the nodes of a network to perform capacity planning because it provides the user with accurate information of the computing devices, the information indicating the device's measured utilization and performance so that users may plan for future capacity needs.

7. Claims 8 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coelho/Englefield/Kodosky* and *Collier et al* (US 5,815,152).

Claim 8:

See claim 1. Coelho/Englefield/Kodosky does not teach that action icons can assign a common priority for a corresponding action to each computing device represented by the selected graphical computing device icon. However, Collier discloses a method for defining graphic rules, wherein routing objects on a condition leg can be an automated task or a parallel object. A parallel routing object is a

collection of tasks, which can be performed concurrently. All tasks defined as part of the parallel routing object must be completed prior to the system routing the case to the next task defined in the process (col. 8, lines 4-25). Therefore, it would have been obvious to an artisan in the art at the time the invention was made to modify Coelho/Englefield/Kodosky's system to include Collier's teaching of selecting a common priority (same time) to perform an action (task) for a group of objects (device icons) because it enables the user to determine what objects or group of objects will execute what action and synchronize the time of execution.

Claim 12:

See claim 8. Kodosky teaches instructing a computing device represented by a computing device icon to execute a group of actions represented by an action icon. Coelho/Englefield/Kodosky does not teach displaying a group of actions as an action icon and a group of computing devices as a computing device icon on the display. However, Collier teaches a condition leg, which may have a series of action objects (col. 7, lines 22-35). Collier teaches that the user may create multiple rules, which are represented by a single icon (col. 3, lines 42-54; col. 4, lines 55-67). The user can also add more conditions to a rule (col. 5, lines 17-34; col. 7, lines 7-8, 22-40).

Claim 13:

See claim 12. Collier teaches that an action object is an icon representing a specific action to be executed by the system. The user drags the action object off the

toolbar to the condition leg and drops the action object on top of the condition leg (col. 7, lines 31-35).

Claims 14 and 15:

See claims 1 and 2. Coelho/Englefield/Kodosky/Collier teaches instructions that correspond to groups of actions represented by action icons, wherein the archive file is a script file.

Claim 16:

See claim 12. Coelho/Englefield/Kodosky/Collier teaches user selection of an executable file and instructing a computing device corresponding to a selected device icon to execute the group of actions corresponding to a selection action icon.

Claim 17:

Coelho teaches a mouse as a user interface selection device (fig. 2; col. 5, lines 54-59).

Claim 18:

Coelho teaches a server computer (figs. 1a, 1b).

Claim 19:

Coelho teaches a software framework facility (col. 3, lines 35-41).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to

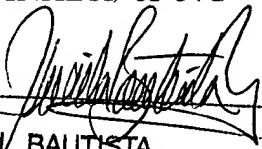
applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X. L. Bautista whose telephone number is (571) 272-4132. The examiner can normally be reached on Monday-Thursday 8:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

xlb
August 29, 2007


X. L. BAUTISTA
PRIMARY EXAMINER